

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 23, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 11OD-142

Oahu

Consent to Assignment and Amendment of Grant of Non-Exclusive Easement S-5623, Castle Family LLC, and Windward T&C II, Assignors, to Castle Family LLC and Vision Windward II, LLC, Assignees, Kailua, Koolaupoko, Oahu, Tax Map Key: (1) 4-2-003:030 (Portion).

APPLICANT:

Castle Family LLC, (formerly known as Castle Family Limited Partnership) and Windward T&C II, as Assignors, to Castle Family LLC and Vision Windward II, LLC, hereinafter called the Assignees.

LEGAL REFERENCE:

Section 171-36(a) (5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of State lands situated at Kailua, Koolaupoko, Oahu, identified by tax map key: (1) 4-2-003:portion of 30, as shown on the attached map labeled Exhibit A.

AREA:

33 square feet, more or less.

TRUST LAND STATUS:

Non-ceded. (Lands acquired after statehood)
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CHARACTER OF USE:

Right, privilege and authority to construct, install, use, maintain, repair, replace and remove tile wall, concrete curb and drain inlet over and across State-owned land.

TERM OF LEASE:

Fifty-five (55) years, commencing on April 12, 2001.

ANNUAL RENTAL:

Not applicable. One-time payment (\$156.00) was paid previously.

ASSIGNMENT:

CONSIDERATION:

\$10.00

RECOMMENDED PREMIUM:

Not applicable as the lease does not allow for a premium.

DCCA VERIFICATION:

ASSIGNOR:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Good standing confirmed:	YES <u>X</u>	NO <u> </u>

ASSIGNEE:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Good standing confirmed:	YES <u>X</u>	NO <u> </u>

REMARKS:

The Board at its meeting of April 12, 2001, under agenda item D-7, approved the issuance of a non-exclusive easement to Castle Family Limited Partnership and Windward T&C II, for a tile wall and concrete curb purposes. Later, at its meeting of August 10, 2001, under agenda Item D-17, "drain outlet " was added to the purpose of the easement. Windward T&C II leased the adjoining private property from Castle Family Limited Partnership.

Castle Family Limited Partnership, changed its name to Castle Family LLC, a Hawaii limited liability company on November 30, 2005.

By way of an Assignment of Lease recorded at the Bureau of Conveyances, identified as document no. 2006-004692, Windward T&C II, sold their leasehold interest together with the subject easement in January 2006 to Vision Windward II, LLC. The sales transferred property rights to the new lessee, who in effect, need to become the new grantee for the subject easement.

Staff now brings this request to the Board for its consent to the assignment. In addition, staff recommends the Board amend the easement by adding a condition allowing the easement rights to insure to the benefit of the private property. Such amendment will eliminate any consent needed from the Board regarding any future changes in the ownership or lessee. This recommendation would serve to maintain consistency with the Board's current practice for issuing easements

The Assignees has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions. Therefore, staff does not have any objection to the request for consent to assign.

No comments were solicited from other government agencies being that there is no change in the applicant's existing use of the area. There are no pertinent issues or concerns.

Staff has no objections to this request.

RECOMMENDATION: That the Board:

A. Consent to the Assignment of Grant of Non-Exclusive Easement No. S-5623 from Castle Family LLC., and Windward T&C II, as Assignors, to Castle Family LLC., and Vision Windward II, LLC, as Assignees, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

B. Amend Grant of Non-Exclusive Easement No. S-5623 by adding the following condition:

"The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key:(1) 4-2-001:005, provided however: (1) it is specially understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document."

Respectfully Submitted,



Steve Lau
Land Agent

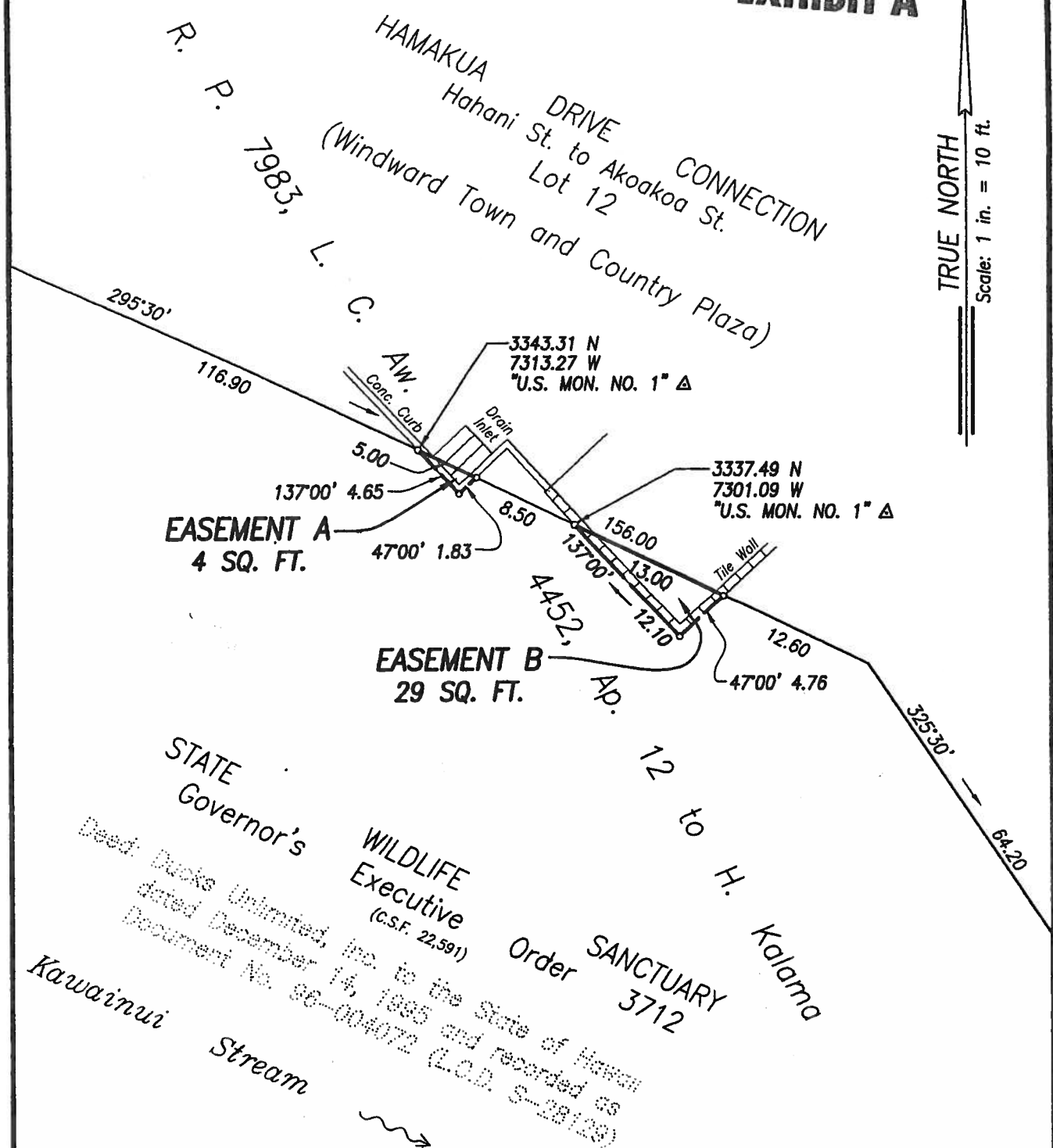
APPROVED FOR SUBMITTAL:



William J. Aila Jr., Chairperson

EXHIBIT A

TRUE NORTH
Scale: 1 in. = 10 ft.



NON-EXCLUSIVE MAINTENANCE EASEMENTS EASEMENTS A AND B

Kailua, Koolaupoko, Oahu, Hawaii

Scale: 1 inch = 10 feet

EXHIBIT "A"

JOB 0-98(2001)

C. BK.

TAX MAP 4-2-03: Por. 30

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES